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TELECONFERENCE MINUTES

JUNE 21, 2006

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Chairman Russell at 12:06 p.m., on Wednesday, June 21, 2006, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present: Robin Shropshire

Board Members Present via Telephone: Chairman Joseph Russell, Don Marble, Bill Rossbach, , Gayle Skunkcap and Kim Lacey

Board Attorney Present: Katherine Orr, Attorney General's Office, Department of Justice

Board Secretary Present: Joyce Wittenberg

Court Reporter Present: Cheryl Romsa, Romsa Court Reporting

Department Personnel Present: Richard Opper, Director; Tom Livers, Deputy Director; John North, Chief Legal Counsel; Lisa Peterson, Director's Office; Steve Welch, Administrator, Permitting & Compliance Division (PCD); Warren McCullough, Environmental Management Bureau, PCD.

Interested Persons Present (in person or via telephone): Jeff Barber, Montana Environmental Information Center; Tracy King, Fort Belknap; John Allen, Assiniboine Tribe; Phillip Stiffarm, Gros Ventre Tribe; Julie King-Kulbeck, Fort Belknap; Wes Killeagle, Gros Ventre tribe; Catherine Halver, Island Mountain Protectors; Hope Stockwell, Montana Public Radio; Don Quander; John Beaudry & Bruce Gilbert, Stillwater Mining Company; Julia Doney, Fort Belknap; Kermit Horn

I In the matter of the amendment of ARM 17.24.116 pertaining to application requirements for operating permits under the Metal Mine Reclamation Act.

Chairman Russell called for a motion to take this item off the table. Ms. Shropshire so MOVED. Mr. Marble SECONDED the motion. The motion CARRIED with a 4-2 VOTE.

Mr. Livers said the DEQ is supportive of the intent of the rule, but does not believe this rule is the appropriate method to accomplish that. He said the DEQ has been trying to identify alternatives, but they had all been legislative in nature. He said the DEQ has already proposed some legislation, but intends to expand it.

Mr. Livers said the DEQ recommends the Board not adopt the rule, but instead to encourage the Department to move forward with legislation developed with input from MEIC, Fort Belknap Community Council and the mining industry.

Discussion took place and Mr. Livers responded to questions from Board members regarding reclamation at Zortman-Landusky. Also discussed was the Swift Gulch drainage and the possibility of including specific language in terms of appropriations for it into the proposed mining legislation.

Mr. Barber said significant progress had not been made over the previous few weeks, which had been a requirement of the Board when it tabled the rule. He encouraged the Board to adopt the rule and move forward.

Mr. King inquired why it is taking so long to clean up Swift Gulch. He said it is clean on the Zortman side, the Landusky side and the BLM side. He suggested that race was the reason why it had not been cleaned on the Fort Belknap side. He wants the Board to go see it.

Mr. Allen admonished Mr. Livers for introducing himself and others in Fort Belknap as "several folks from Fort Belknap," while he introduced DEQ staff and other attendees individually. He also rebuked Mr. Marble for referring to them as "these people." He said the Tribe would like bonding increased and would like to see the Board visit their area. He suggested an extension of the public comment period.

Ms. Doney thanked Mr. Skunkcap for visiting and touring the area. She invited the rest of the Board members to take a tour also.

Mr. Halver questioned why it has taken so long for Swift Gulch to be discussed.

Mr. King wanted Mr. Marble to know that he also was offended by Mr. Marble's wording of "these people."

Mr. Marble apologized for unintentionally offending Mr. King and others.

Mr. Horn said that around 1979 the elders of Fort Belknap warned the State of Montana that waters would be contaminated and that other damage would occur.

Mr. Stewart said the Mining Association recognizes that issues exist and that they will continue to work with the DEQ, the Legislature, and the Governor's Office to come to a good resolution. He said there had been brief discussions of a trust fund and of an umbrella coverage insurance program.

Ms. Shropshire suggested that with clear rules and clear legislation, there would be less need for bonding and trust funds. She said there is a lot of language in the proposed rule that can be clearer. She suggested other states be involved in moving forward and requested that all interested parties be involved in the process, that DEQ be upfront about when meetings are taking place. Ms. Shropshire implied that previous meetings had taken place behind closed doors and the parties found out about it later.

Ms. Shropshire insisted that taxpayers should not be stuck with the bill of cleaning up mines that weren't mined properly in the beginning, and that we should not risk leaving children, taxpayers and elders to live with mine waste.

Ms. Lacey MOVED to not adopt the rule. A second was not heard on the motion.

Mr. Rossbach MOVED to table the rule. Ms. Lacey SECONDED the motion. The motion CARRIED with a unanimous VOTE.

Ms. Shropshire MOVED to direct the DEQ to come back with suggested language for a new rule, to include bonding, a trust fund and rules and legislation. She suggested a briefing at the next meeting. Mr. Marble SECONDED the motion. The motion CARRIED with a unanimous VOTE.

II. General Public Comment

Chairman Russell called for general public comment. There was no response.

III. Adjournment

Ms. Lacey MOVED to adjourn. Ms. Shropshire SECONDED the motion. The motion CARRIED with a unanimous VOTE.

The meeting adjourned at 1:23 p.m.

Board of Environmental Review June 21, 2006, teleconference minutes approved:

JOSEPH W. RUSSELL, M.P.H.
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

DATE